



[4910-13-P]

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA-2012-0805; Directorate Identifier 2012-NM-117-AD]**

**RIN 2120-AA64**

**Airworthiness Directives; The Boeing Company Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Proposed rule; rescission.

**SUMMARY:** We propose to rescind an existing airworthiness directive (AD) that applies to certain The Boeing Company Model 767-200, -300, -300F, and -400ER series airplanes. The existing AD currently requires an inspection to determine if certain motor operated valve actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. We issued that AD to prevent an ignition source inside the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane. Since we issued that AD, we have received new data indicating that the existing AD addresses that safety concern, but also introduces a different unsafe condition.

**DATES:** We must receive comments on this proposed AD by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 202-493-2251.

- Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

- Hand Delivery: Deliver to the Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H-65, Seattle, WA 98124-2207; telephone 206-544-5000, extension 1; fax 206-766-5680; Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221.

#### **Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800-647-5527) is in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Rebel Nichols, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: (425) 917-6509; fax: (425) 917-6590; e-mail: [Rebel.Nichols@faa.gov](mailto:Rebel.Nichols@faa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the ADDRESSES section. Include “Docket No. FAA-2012-0805; Directorate Identifier 2012-NM-117-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### **Discussion**

On October 19, 2009, we issued AD 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009), for certain The Boeing Company Model 767-200, -300, -300F, and -400ER series airplanes. That AD requires an inspection to determine if certain motor operated valve actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. That AD resulted from fuel system reviews conducted by the manufacturer. We issued that AD to prevent an ignition source inside the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

### **Actions Since Existing AD (74 FR 55755, October 29, 2009) Was Issued**

Since we issued AD 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009), we discovered that the corrective action addresses that safety concern, but also introduces a different unsafe condition. The manufacturer is developing a more

complete solution to address both unsafe conditions. We will consider additional rulemaking to require a new solution once that solution is developed, approved, and available for accomplishment.

### **FAA's Conclusions**

Upon further consideration, we have determined that existing AD 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009), must be rescinded. Accordingly, this proposed AD would rescind AD 2009-22-13. Rescission of AD 2009-22-13 would not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

### **Related Costs**

AD 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009), affects about 397 airplanes of U.S. registry. The estimated cost of the currently required actions for U.S. operators is between \$67,490 and \$134,980, or between \$170 and \$340 per airplane. Rescinding AD 2009-22-13 would eliminate those costs.

### **Authority for this Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

## **Regulatory Findings**

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866;
- (2) Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
- (3) Will not affect intrastate aviation in Alaska; and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## **List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

## **The Proposed Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

### **PART 39 - AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

#### **§ 39.13 [Amended]**

2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009), and adding the following new AD:

**The Boeing Company:** Docket No. FAA-2012-0805; Directorate Identifier 2012-NM-117-AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**Affected ADs**

(b) This action rescinds AD 2009-22-13, Amendment 39-16066 (74 FR 55755, October 29, 2009).

**Applicability**

(c) This action applies to The Boeing Company Model 767-200, -300, -300F, and -400ER series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 767-28A0090, dated July 3, 2008.

Issued in Renton, Washington, on July 31, 2012.

Michael Kaszycki,  
Acting Manager,  
Transport Airplane Directorate,  
Aircraft Certification Service.

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